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Court-Appointed Receiver

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

IO GROUP, INC.; CHANNEL ONE
 RELEASING, INC., AND LIBERTY MEDIA
 HOLDINGS, LLC.,

Plaintiffs,

v.

GLBT, LTD.; MASH AND NEW, LTD;
 PORT 80, LTD; STEVEN JOHN COMPTON,
 and DAVID GRAHAM COMPTON,

Defendants.

Case No. 3:10-CV-01282 MMC

**FINAL REPORT AND ACCOUNTING OF
 THE RECEIVER**

I. Relevant Procedural Background

This action was originally filed on March 26, 2010. (Dkt. 1) Plaintiffs asserted claims for copyright infringement—specifically, that defendants, through their websites, infringed plaintiffs’ copyrights by displaying and distributing plaintiffs’ copyrighted video works without authorization. *Id.* Plaintiffs further alleged that defendants were liable for copyright infringements of their members.

As this case proceeded, defendants refused to deliver all but a handful of documents in response to requested discovery and admitted to the spoliation of a vast amount of documents. *See* Plaintiffs Motion for Terminating Sanctions for Spoliation of Evidence, Dkt. No.63, *in passim*. In anticipation of a negative ruling on Plaintiffs’ Motion for Sanctions for these discovery violations, defendants dissipated the sole assets they held in the United States by transferring the operation of the websites from US-based .com websites to European-based .eu websites. *See*, Plaintiff’s Motion

1 for Temporary Restraining Order, Dkt. No. 84, *in passim*. The Court entered a preliminary
 2 injunction finding that Plaintiffs' were likely to succeed on the merits and ordered the control of the
 3 registrations for all the websites to be turned over to a Court-appointed receiver. *See* Order Granting
 4 in Part Plaintiffs' Motion for Preliminary Injunction, Dkt. No. 103.

5 Defendants ignored the Order, and have been accumulating contempt sanctions at the rate
 6 of \$1,000 a day since October 12, 2011. Order re Contempt, Dkt. No. 123. Defendants also ignored
 7 Magistrate Ryu's order to pay attorney fee sanctions in the amount of \$15,000. Order Granting in
 8 Part and Denying in Part Plaintiffs' Motion for Sanctions for Spoliation of Evidence, Dkt. No. 124.

9 On June 26, 2012, the court issued its Order Appointing Scott Raber As Receiver In
 10 Substitution for Anne Bradley (the "June 26, 2012 Order.") (Dkt. 179.) Mr. Raber filed his Oath of
 11 Receiver on August 3, 2012. (Dkt. 184.)

12 The Court entered Summary Judgment on behalf of Plaintiffs and against the individual
 13 defendants and entered default judgment against the business entity defendants, jointly and severally,
 14 in the amount of \$1,787,747.42. (Dkt. Nos. 209, 210-213.)

15 Plaintiffs then obtained writs of execution as to GLBT Ltd, Mash and New Limited. Dkt.
 16 226-227. On August 1, 2013, following a motion by plaintiffs, the Court entered its Order Directing
 17 the Receiver To Levy Upon And Auction The Domain Name Registrations Currently Held By Him
 18 (the "Auction Order"). (Dkt. 230.)

19 **II. The Receiver's Actions In Connection With This Matter**

20 Upon being substituted as Receiver for Ms. Bradley in this matter, Mr. Raber
 21 immediately took steps to have the domain names subject to the Court's order transferred from Ms.
 22 Bradley to his possession through GoDaddy. The transfer of the ".com" domains from Ms. Bradley
 23 took considerably longer than expected owing to Ms. Bradley's leave from her firm and subsequent
 24 job change. In addition, a bond (which has since been renewed once) was obtained.

25 Although the Receiver obtained the offending ".com" domains, defendants continued to
 26 refuse to transfer the ".eu" domains at issue in this case, in violation of the Court's prior orders.
 27 The Receiver researched and initiated the necessary procedures for enforcing the Court's orders
 28 against the foreign registries holding the .eu domains. Ultimately, the Receiver determined—in

1 consultation with plaintiffs' counsel—that it would likely not be cost-effective to pursue transfer of
 2 the “.eu” domains from foreign registries, as permitted by the Court's June 26, 2012 Order. (Dkt.
 3 179.)

4 Throughout his appointment, the Receiver necessarily undertook various other
 5 miscellaneous tasks in furtherance of his responsibilities, including regularly communicating with
 6 plaintiffs' counsel about efforts to obtain a final judgment and the desired level of the Receiver's
 7 enforcement actions; the status of the litigation; levying on the domains in enforcing the judgment;
 8 and disposing of the domain assets.

9 In furtherance of the Auction Order, the Receiver sought to list the domain names with
 10 internet domain auction services and necessarily investigated several alternatives, as not all auction
 11 providers service adult-themed domains. In order to have a sense of fair market value for auction
 12 purposes, the receiver also sought appraisals for the three domains through Afternic. The
 13 gayforit.com and itsallgay.com domains each appraised for \$950.¹

14 **III. Sale Proceeds For Domains**

15 It is probably safe to say that the domains did not command at auction values that were
 16 envisioned when the plaintiffs first sought, and the Court authorized implementation of a
 17 receivership. In trying to maximize returns, the Receiver initially listed the domains for amounts
 18 close to the appraised values (with “buy now” amounts even higher); however, they received no
 19 bids. Accordingly, the Receiver re-listed the domains at low opening prices (\$25 each). After doing
 20 so, gayforit.com received 55 bids, itsallgay.com received 19 bids, and jerkyoutube.com received 7
 21 bids from prospective buyers.

22 Following two week-long auction periods, the domains sold for the following amounts
 23 with net proceeds (proceeds after GoDaddy's 10% commission) paid to the Receiver as follows:

- 24 i) gayforit.com, \$329.00-\$32.90 = \$296.10
- 25 ii) itsallgay.com, \$293.00-\$29.30 = \$263.70
- 26 iii) jerkyoutube.com, \$55.00-\$5.50 = \$ 49.50

27
 28 ¹ Although it appraised the other two domains, Afternic refused to appraise the third domain, jerkyoutube.com, on the basis that the company does not appraise adult-themed names.

Total Net Proceeds:**\$609.30**

The net proceeds are currently held in the client trust account of Rimon, P.C. and will be disbursed in accordance with the Auction Order. (Dkt. 230.) Statements from GoDaddy regarding the gross and net proceeds from the auction are attached respectively as Exhibits A and B to this report.

IV. Fees and Expenses Incurred to Date

Mr. Raber's hourly rate in this matter has been \$400 at all times. The paralegal assigned to this matter, Elana Sharir, has been charged at \$160 per hour. Through October 31, 2013, Mr. Raber had expended 29.2 hours in connection with this matter; Ms. Sharir has expended 5.4 hours.

From the date of Mr. Raber's appointment as Receiver, defendants have incurred total fees in the amount of \$12,524.00, covering the period from April 2012 through October 31, 2013. It is anticipated that an additional \$2-3,000 will have been billed between now and the hearing regarding approval of the Final Report and release of the Receiver from his responsibilities, as a result of preparing this report, the accompanying motion papers, and preparing supplemental papers and appearing at a hearing (if necessary).

From April 2012 to the present, the Receiver has incurred \$249.98 in expenses, which includes costs for bonding, appraisal fees, and domain registrations.

Plaintiffs have paid the majority of fees billed through October 31, 2013, except as of the date of filing of this Final Report defendants have an outstanding balance with the Receiver's firm of \$4,050.96 (before amounts billed in November).

Plaintiffs have indicated to the Receiver that they would like to offset the remaining fees owed to the Receiver by the amounts earned through auction of the domains (\$609.30), in accordance with the Court's Auction Order. (Dkt. 230.)

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Dated: November 8, 2013

Respectfully submitted,

4
5 /s/ Scott R. Raber

6 Scott R. Raber
7 RIMON, P.C.

8 Court-Appointed Receiver
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CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2013, I electronically filed the foregoing document with the Clerk of the Court using this court's CM/ECF system, which will automatically send e-mail notification of such filing to all counsel who have entered an appearance in this action.

Pursuant to Civ. L.R. 5-1(e), the e-mail notification constitutes service to those counsel of record.

/s/ Scott R. Raber

Scott R. Raber
Rimon, P.C.

EXHIBIT A

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Hi, Scott

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Domain Name: ▲	Sold At	Asking Price	Sold Date	Sold To	Status
gayforit.com	\$329 (55 bids)	\$25	10/04/2013	1298589 Email Buyer	
itsallgay.com	\$293 (19 bids)	\$25	10/04/2013	119684 Email Buyer	
jerkyourtube.com	\$55 (7 bids)	\$25	10/04/2013	1298589 Email Buyer	

Display 50 ▾ Items per page 3 Items

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EXHIBIT B



Scott Raber <scott.raber@rimonlaw.com>

You've been paid

GoDaddy <auctions@godaddy.com>

Reply-To: auctions@godaddy.com

To: scott.raber@rimonlaw.com

Tue, Nov 5, 2013 at 1:00 AM



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Dear Scott Raber,

Congratulations! We wanted to let you know you've been paid for the following domain(s) sold at auction on November 04, 2013:

gayforit.COM Sold at*: \$296.10; Method: Electronic Transfer
itsallgay.COM Sold at*: \$263.70; Method: Electronic Transfer
jerkyourtube.COM Sold at*: \$49.50; Method: Electronic Transfer

Enjoy the proceeds. We look forward to seeing more of your domains at auction soon.

Sincerely,
GoDaddy

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